

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

PROGRESSIVE SPECIALITY)
INSURANCE CO.,)
Plaintiff,)
v.)
PARKING ENFORCEMENT)
SYSTEMS, INC., AND TERRY WHITE,)
Defendants.)

Case Number: 2:24-CV-1358-JHE

ANSWER AND AFFIRMATIVE DEFENSES
OF PARKING ENFORCEMENT SYSTEMS, INC.

COMES NOW the Defendant Parking Enforcement Systems, Inc. (“Defendant/PES”), by and through their undersigned counsel, in the above styled cause and hereby responds to the allegations set forth in Plaintiff, Progressive Specialty Insurance Co. (“Plaintiff/Progressive”), as follows:

ANSWER

PES denies all allegations made against it by Terry White in the underlying suit referenced in Plaintiff’s Complaint before this court in paragraph 6 and others. Plaintiff denies each and every paragraph of Plaintiff’s Complaint before this Court so far as they repeat, reference, incorporate, infer, suggest, or otherwise relate in any way to allegations made by Terry White and previously denied by PES in the Circuit Court of Jefferson County, Alabama, case number 01-CV-2024-900860.

PES further Answers as follows:

1. PES lacks information or knowledge sufficient to admit or deny the allegations set forth in paragraph 1.
2. Admitted.
3. PES lacks information or knowledge sufficient to admit or deny the allegations set forth in paragraph 3.

4. PES lacks information or knowledge sufficient to admit or deny the allegations set forth in paragraph 4.
5. PES lacks information or knowledge sufficient to admit or deny the allegations set forth in paragraph 5.
6. PES lacks information or knowledge sufficient to admit or deny the allegations set forth in paragraph 6.
7. PES lacks information or knowledge sufficient to admit or deny the allegations set forth in paragraph 7.
8. Admitted in that PES notified Progressive a lawsuit filed against it by Terry White, but this admission is not an endorsement or ratification of paragraph 7 of Progressive's Complaint.
9. Denied in that PES denies Progressive is entitled to the relief sought.
10. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
11. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
12. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
13. This paragraph does not require a response from PES; however the allegations are speculative and not factual and therefore Denied by PES.
14. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
15. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.

16. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
17. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
18. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
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23. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
24. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
25. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
26. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
27. Denied.
28. Denied.

29. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
30. Denied.
31. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
32. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
33. Denied.
34. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
35. Denied.
36. This paragraph does not require a response from PES. PES denies Progressive is entitled to the relief sought.
37. Denied.
38. Denied.
39. Denied.
40. Denied.

PRAYER FOR RELIEF

Defendant denies that Progressive is entitled to the relief it seeks in this matter.

AFFIRMATIVE DEFENSES

1. To dismiss this action because the complaint fails to state a claim against Defendant upon which relief can be granted.

2. Defendant pleads the general issue in response to the allegations contained in Plaintiff's complaint. PES denies each and every claim and count, and demands strict proof thereof.
3. Plaintiff's claims are barred because Plaintiff is attempting to invoke the Declaratory Judgment Act to determine facts made the subject of the Jefferson County Circuit Court action.
4. Plaintiff's claims are barred by the doctrines of laches, non-assumpsit, and accord and satisfaction.
5. Plaintiff's claims are barred because it is seeking an advisory opinion based on the anticipated or hypothetical events.
6. Plaintiff's claims are barred because it is seeking a declaratory judgment that is not based on an actual controversy.
7. Plaintiff's claims are barred by Plaintiff's failure to do equity.
8. Plaintiff's claims are barred by the statute of frauds.
9. Plaintiff's claims are barred by Plaintiff's unclean hands.
10. Defendant PES pleads the affirmative defenses of ratification, modification and novation.
11. Plaintiff has failed to mitigate its damages.
12. Plaintiff's claims is barred by release.
13. Plaintiff's alleged damages were proximately caused by superseding or intervening acts or omissions by person(s) or entities other than Defendant PES for whom PES is neither responsible nor liable.
14. Defendant denies that Plaintiff was damaged or harmed in any way as a result of any conduct or obligation owed by PES.
15. PES denies that it violated any duty allegedly owed to Progressive.
16. Plaintiff's claims are barred due to lack of causal relation and/or connection.

17. Progressive's alleged damages were not a proximate result of any act or omission of PES.
18. Plaintiff's claims are barred by the equitable doctrines of waiver and estoppel.
19. Plaintiff's claims are barred because of improper venue.
20. Plaintiff's claims are barred because of insufficiency of process and insufficiency of service of process.
21. Plaintiff's claims are barred because they lack standing.
22. Plaintiff should be barred from bringing this action because other remedies are available to it.

s/ John W. Gray II
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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2024, a copy of the foregoing was electronically filed with the Clerk of the Court using the AlaFile System, which sends notification of such filing to counsel of record in this cause and those not registered with AlaFile for electronic notification have been served via U.S. mail or electronic mail.

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